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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,132	09/16/2003	Kelly J. Reasoner	100201882-1	5397

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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER
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BUTLER, MICHAEL E

ART UNIT	PAPER NUMBER
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3653

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/665,132

Applicant(s)

REASONER ET AL.

Examiner

Michael Butler

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 14-17 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/28/2005; 9/16/03</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election of the Group I claims without traverse is acknowledged.

The restriction requirement is made final.

2. Claims 14-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
  - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
  - (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.
4. Claims 1, 4, 7-9, and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Goodman et al. 6782448 which discloses all the claimed elements including:

(Re: cl 1,7,) An inventory control device comprising: a latch positioned in relation to an access device of a data storage system so that opening the access device causes the latch to move from a first position to a second position; a sensor to sense a latch state indicating the position of the latch (c12 l 33-35);

and control logic communicatively coupled to the sensor, to cause the data storage system to inventory one or more storage locations associated with the access device if the sensor indicates the latch is in the second position and to cause the data storage system to not inventory the one or more storage locations if the sensor indicates the latch is in the first position (C4 L 4-28)

(Re: cl 4,8) further comprising an actuator to move the latch from the second position to the first position, the control logic to cause the actuator to move the latch from the second position to the first position.(C11 L 65-C12 L3)

(Re: cl 7) A method comprising: obtaining a position of a latch, the position of the latch indicating if an access device of a data storage system was opened while the data storage system

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was shut down; causing the data storage system to perform an inventory on one or more storage locations associated with the access device if the position of the latch indicates the access device was opened; and causing the data storage system to not perform the inventory on the one or more storage locations if the position of the latch indicates the access device was not opened.

(Re: cl 8)(7) further comprising if the position of the latch indicates the access device was opened, causing the latch to return to the position indicating the access device was not opened.

(Re: cl 9)(7) wherein obtaining the position of the latch comprises obtaining a latch state indicating the position of the latch by means of a sensor (c12 L 33-35);

(Re: cl 11) An inventory control device comprising: latch means positioned in relation to an access device means of a data storage system means so that opening the access device causes the latch means to move from a first position to a second position; sensing means to sense a latch state indicating the position of the latch; and logic means communicatively coupled to sensing means, to cause the data storage system means to inventory one or more storage locations associated with the access device means if the latch state indicates the latch means is in the second position (C11 L 65-C12 L3)

(Re: cl 12)(11) further comprising actuator means to move the latch means from the second position to the first position, the logic means to cause the actuator means to move the latch from the second position to the first position. (c12 L 33-35);

(Re: cl 13)(11) wherein the logic means is further to cause the data storage system means to not inventory the one or more storage location means if the latch state indicates the latch means is in the first position. (C4 L 4-28).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim(s) 1-4 and 7-13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman et al. 6782448 in view of Chaloner '174 (US 2002/0138174A1) wherein the former discloses all the claimed element except those taught by the latter including::

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(Re: cl 2) wherein the access device comprises a data storage drawer (66 fig 1 22/24 fig3)

(Re: cl 3) (2) wherein the storage locations comprise data cartridge locations within the data storage drawer (66 fig 1 22/24 fig3)

(Re: cl 10)(7) wherein the access device comprises a data storage drawer (66 fig 1 22/24 fig3).

It would have been obvious for Goodman et al. to place data storage devices in a drawer and inventory as drawers provide a compact, safe out of the way place to keep data storage devices and inventorying at newly inserted sites gives a current inventory list as taught by Chaloner '174 and come up with the instant invention.

7. Claim(s) 1, 4, 7-9, and 11-13 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman et al. 6782448 in view of Reasoner et al. '215 (US 2004/0118215A1) wherein the former discloses all the claimed element except those taught by the latter including:

(Re: cl 5) wherein the actuator comprises a solenoid (paragraph 12)

(Re: cl 6) wherein the sensor comprises an optical interrupter (paragraph 5)

It would have been obvious for Goodman et al. to use a solenoid to close the latch as the solenoid provides linear displacement from an electrical signal consistent with the necessary activation motion of a latch as taught by Reasoner et al. '215 and come up with the instant invention. It would have been obvious for Goodman et al. to sense with an optical interrupter as an optical sensor provides electrical isolation prevent risk of data loss or memory damage and some measure of mechanical isolation as taught by Reasoner et al. '215 and come up with the instant invention.

***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 4, 7, 11, 12 and 13 are rejected under the judicially created doctrine of double patenting over claims 1, 6, 8, 9, 12, 13 of U. S. Patent No. 6741907 to Chaloner '907 since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. It would have been obvious at the time of the invention to use upgrade a switch to a latch to retain powerfail data or to secure the data storage component when power is off and come up with the instant invention.

10. Claims 1-3, 5-16 are rejected under the judicially created doctrine of double patenting over claims 14,5,8-9, 13-15 of U. S. Patent No. 6907314 to Reasoner et al. '314 since the claims, if allowed, would improperly subject applicants to harassment from multiple assignees. Open and closed positions obviate the broader first and second position, and it would have been obvious at the time of the invention to substitute the a sensor sensing the latch with a sensor circuit sensing data storage device position to determine which use upgrade a switch to a latch to retain powerfail data or to secure the data storage component when power is off and come up with the instant invention.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEB  
1/8/06

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600